

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PANE,	:	
	:	ORDER
Plaintiff,	:	
	:	07 Civ. 3216 (LMS)
-against-	:	
GREENBURGH, et al.,	:	
	:	
Defendants.	:	

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Defendants have submitted to the Court for *in camera* review the personnel files for the individual police Defendants. This Order identifies the documents from the personnel file of defendant Paul Fertig that are to be produced to plaintiff.

In assessing the need for a plaintiff to obtain records from a municipal employee's personnel file, this Court is obligated to balance the plaintiff's need for disclosure against the employer's legitimate interest in protecting the confidentiality of the employee's personnel file. The review of the submitted records has been completed with this obligation in mind, and I am satisfied that the documents identified below are both relevant and material for purposes of discovery. I conclude that provision of the following categories of documents is both appropriate and necessary for purposes of discovery in this case, and is not unduly intrusive upon the defendant's privacy. The categories of documents are: (1) performance evaluation forms for the period from 2005 through 2007; (2) documents evidencing internal discipline relating to improper conduct, or the acquiescence in other officers using improper conduct, in connection with arrests of civilians while employed by the Town of Greenburgh; (3) relevant

commendations and awards while employed by the Town of Greenburgh; (4) relevant training documents while employed by the Town of Greenburgh; and (5) documents relating to this incident or this plaintiff.

From File of Paul Fertig

Letter of commendation

Personnel Evaluation Report

New York Police Department Transcript

Letter of commendation and response

Letter of commendation and response

Letter of commendation and response

Certificate of Training

Certificate of Training

Certificate of Completion

Special Order

Date

4/21/2004

6/1/2006 (4 pages)

7/19/1996

6/21/1996 & 6/25/1996 (2 pages)

undated & 9/19/1996 (2 pages)

6/25/1997 & 7/8/1997 (2 pages)

3/19/1996

5/3/1996

9/14-16/2005

4/21/98 (this Order is 8 pages long; produce only the following: the top of the first page – above the words "Medal of Merit"; the top of the third page – up to and including the words "Submitted by Sgt. Harold Young"; the third entry on page five – below "Submitted by Sgt. John T. Murphy" down to and including the words "Submitted by Sgt. Harold Young"; the second entry on page six – below "Submitted by Sgt. Richard Conroy" down to and including the words "Submitted by Sgt. Harold Young"; the fourth entry on page six – below "Submitted by Sgt. John Park" down to and including the words "Submitted by Sgt. Harold Young"; and the signature section of page 8)

Approved on 5/6/1994 (2 pages)

Approved on 4/11/1996 (first page only)

Approved on 5/6/1994 (1 page)

Second entry on page – below "Submitted by Sgt. P. Gillies" down to and including the words "Submitted by Lt. R. Downey."

Disapproved on 12/8/1993 (2 pages)

Approved on 5/6/1994 (2 pages)

6/15/1995

6/14/1995

7/19/1994

Request for commendation

Request for commendation

Request for commendation

Single loose page number 4 (from a Spec. Order)

Request for commendation

Request for commendation

Letter

Letter of commendation

Letter

Letter of commendation	7/17/1994
Letter with attachments	6/1/1994 (attached is a notecard and two sheets of 8 ½" x 5 ½" paper)
Letter	10/6/1993
Letter of commendation	9/23/1993
Memo of recognition	3/27/1992
Letter of commendation	7/3/1992
Letter	7/21/1992
Letter	1/6/1994
Letter of commendation	1/3/1994
Letter	6/27/1994
Letter of commendation	6/6/1994
Letter with attachments	9/21/1994 (attached is a notecard)
Personnel Evaluation Report	7/12/2006 (6 pages)
Letter with attachment	2/19/2007 (2 pages)
Disciplinary memo	2/21/2007 (4 pages)
Charges	4/17/2006 (4 pages)

The documents identified above are 8 ½" by 11" pages except where noted. Counsel for defendants is hereby directed to make legible copies of the identified documents and produce them to plaintiff within 3 business days of the date of this Order. To assist counsel in this process, a yellow Post-it note has been appended to each identified document or set of documents. If any of the documents includes any social security numbers, personal or home telephone or address information, or similar personal identification information (other than the defendant's name), such information may be redacted prior to producing the documents to plaintiff.

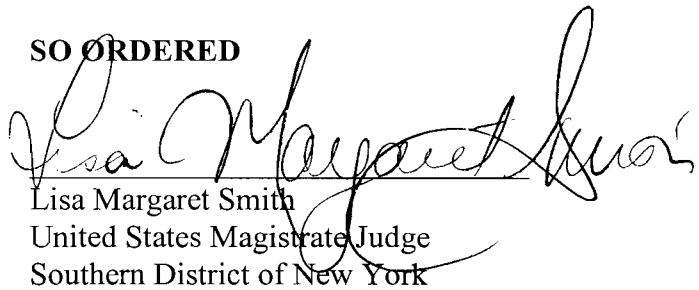
These documents are being produced for purposes of this litigation only, and are to remain confidential. Plaintiff is directed only to use these documents and their contents in connection with preparation for this trial. Plaintiff is to insure that any person to whom these documents are shown or with whom these documents and their contents are discussed are advised of the contents of this Order, and specifically that the use of the documents or

information contained therein is to be used solely for purposes of this litigation, and are not to be further disseminated or distributed in any way or for any purpose. Any failure to comply with this confidentiality provision may result in the imposition of sanctions, including monetary sanctions, preclusion of evidence at trial, and striking of pleadings.

The Clerk is directed to return the personnel records for Paul Fertig to counsel for defendants along with a copy of this Order.

Dated: August 6, 2008
White Plains, New York

SO ORDERED



Lisa Margaret Smith
United States Magistrate Judge
Southern District of New York